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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,981	12/30/1999	MASATO HUMA	991504	3229

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EXAMINER

TRAN, THANG V

ART UNIT

PAPER NUMBER

2653

DATE MAILED: 04/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/446,981

Applicant(s)

HUMA, MASATO

Examiner

Thang V. Tran

Art Unit

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-13 is/are allowed.
- 6) ☒ Claim(s) 1-10, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2653

Claim Rejections - 35 USC § 112

1. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1:

It is unclear what applicant intends to state by the statement "data relevant to ... the first data is recorded", lines 2-5. Did applicant intend to state that -- data relevant to the first data are recorded on the other signal recording layer at a recording density higher than that at which the first data are recorded --?

In claims 14 and 15:

The statement -- are output from the second data output device and -- should be inserted after "which", line 15; and change the term "the multiplexing device", line 15, to -- a multiplexing device --. Otherwise, it is unclear what data is the data recited in line 15, the term "the multiplexing device", line 15, lacks antecedent basis, and it is also unclear to where the data output from a second data output device goes.

The word "hat" in claim 14, line 16, should be -- that --.

Claims 2-10 fall with their base claim 1.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2653

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishizawa (US 5,696,754).

Nishizawa., according to Figs. 2-4B, shows a recording medium having a plurality of recording layers (layers A and B), wherein a first data (software) are recorded on one of the recording layers at first recording density (data or software recorded on layer B) and data relevant to the first data (same software) are recorded on the other recording layer (layer A) at a second recording density higher than the first recording density (see Fig. 2 and also column 3, lines 37-53), as recited in claim 1. For limitations in claim 2, see Fig. 4A or 4B. For limitations in claim 3, 4 and 8, see Fig. 2 and also column 3, lines 37-53. Note: since data are recorded in the recording layer B at density higher than that at the layer B, the data recorded on the layer B must have higher in quality as compared to the data recorded on layer A when data are played back.

4. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Shikunami et al (US 6,038,208).

Art Unit: 2653

Shikunami et al., according to Figs. 9-12, shows a recording medium having a plurality of recording layers (layers 220, 260), wherein a first data (information pit) are recorded on one of the recording layers at first recording density (information recorded on layer 260) and data relevant to the first data (information having same contents of first information) are recorded on the other recording layer (layer 220) at a second recording density higher than the first recording density, as recited in claim 1. For limitations in claim 2, see Fig. 9 or 10. For limitations in claim 3, 4 and 8, see Fig. 9 or 10. It is also noted that since data are recorded in the recording layer 220 at density higher than that at the layer 260, the data recorded on the layer 220 must have higher in quality as compared to the data recorded on layer 260 when data are played back. For limitations in claims 5-7, 9 and 10, see column 6, lines 29-50, column 7, lines 5-28, column 8, lines 40-54, column 11, lines 54-63.

Allowable Subject Matter

5. Claims 11-13 are allowed.

6. Claims 14 and 15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 11-15 are allowed over the prior art of record because the prior art of record, considered in combination or individually, fails to suggest or fair teach a recorder for recording data on a recording medium including a combination of all features as particularly recited in each of claims 11-15.

Cited References

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references relate to an optical recording medium having a plurality of

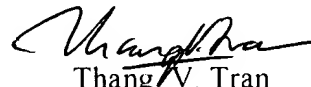
Art Unit: 2653

recording layer for recording data thereon at high and low recording density and/or an apparatus for recording data on a recording medium at high and low recording density.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thang V. Tran whose telephone number is (703) 308-1551. The examiner can normally be reached on Tuesday to Friday, from 7:30AM to 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


Thang V. Tran
Primary Examiner
Art Unit 2653